

Amendment - 1st Reading-white - (H) Human Services

- 2023

68th Legislature 2023

Drafter: Milly Allen, 406-444-9280

SB0328.002.001

1 SENATE BILL NO. 328
2 INTRODUCED BY D. LENZ
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CHILD ABUSE AND NEGLECT LAWS; REVISING THE
5 DEFINITION OF "REASONABLE EFFORTS"; DEFINING "FICTIVE KIN"; ESTABLISHING PLACEMENT
6 PREFERENCES; AMENDING SECTIONS 41-3-101, 41-3-423, 41-3-438, 41-3-440, 41-3-444, AND 41-3-445,
7 MCA; AND REPEALING SECTION 41-3-439, MCA."
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9 WHEREAS, the federal Indian Child Welfare Act requires active efforts that are affirmative, active, and
10 thorough and timely efforts that are tailored, in a manner consistent with prevailing social and cultural
11 conditions, to each case to maintain or reunite an Indian child with the child's family; and

12 WHEREAS, the federal Indian Child Welfare Act outlines placement preferences for foster care,
13 preadoptive, or adoptive placements of Indian children, prioritizing placement with members of a child's
14 extended family; and

15 WHEREAS, the Legislature desires to incorporate the federal Indian Child Welfare Act's requirements
16 regarding active efforts and placement preferences into Montana's existing child abuse and neglect laws.

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18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19
20 NEW SECTION. **Section 1. Placement preferences.** (1) The placement preferences described in
21 this section apply in any foster care, preadoptive, or adoptive placement of a child unless there is a
22 determination under [section 2] that good cause exists to not follow the placement preferences or unless the
23 placement is governed by the federal Indian Child Welfare Act.

24 (2) (a) In any adoptive placement of a child, preference must be given in descending order to
25 placement of the child with:

26 (i) a member of the child's extended family, including fictive kin;

27 (ii) a member of the child's community with ethnic, cultural, and religious heritage similar to the
28 child's family; or

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1 as an integral part of Title 41, chapter 3, part 4, and the provisions of Title 41, chapter 3, part 4, apply to
2 [sections 1 and 2].

3

4 COORDINATION SECTION. Section 12. Coordination instruction. If both House Bill No. 317 and
5 [this act] are passed and approved, then [section 1(1) of this act] must be amended as follows:

6 "(1) The placement preferences described in this section apply in any foster care, preadoptive, or
7 adoptive placement of a child unless there is a determination under [section 2] that good cause exists to not
8 follow the placement preferences or unless the placement is governed by the federal Indian Child Welfare Act
9 or the Montana Indian Child Welfare Act."

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- END -